

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF TEXAS
SAN ANTONIO DIVISION**

**SKY TOXICOLOGY, LTD.; SKY
TOXICOLOGY LAB MANAGEMENT,
LLC; FRONTIER TOXICOLOGY,
LTD.; FT LAB MANAGEMENT LLC;
HILL COUNTRY TOXICOLOGY, LTD.;
ECLIPSE LAB MANAGEMENT, LLC;
and AXIS DIAGNOSTICS, INC.;**

Plaintiffs,

V.

**UNITEDHEALTHCARE INSURANCE;
COMPANY; UNITEDHEALTHCARE
OF TEXAS, INC.;
UNITEDHEALTHCARE OF FLORIDA,
INC.; and UNITEDHEALTHCARE
SERVICES, INC.,**

Defendants.

CIVIL ACTION NO. SA-16-CA-1094-FB

**ORDER ACCEPTING REPORT AND RECOMMENDATION
OF THE UNITED STATES MAGISTRATE JUDGE**

Before the Court are the Report and Recommendation of the United States Magistrate Judge (docket no. 44) concerning plaintiffs' motion to dismiss defendants' counterclaims (docket no. 8), plaintiffs' written objections (docket no. 46) thereto, and defendants' response (docket no. 49) to plaintiffs' objections.

Where no party has objected to a Magistrate Judge's Report and Recommendation, the Court need not conduct a de novo review of the Report and Recommendation. *See* 28 U.S.C. § 636(b)(1) ("A judge of the court shall make a de novo determination of those portions of the report or specified proposed findings and recommendations to which objection is made."). In such cases, the Court need only review the Report and Recommendation and determine whether it is clearly erroneous or contrary to law. *United States v. Wilson*, 864 F.2d 1219, 1221 (5th Cir.), *cert. denied*, 492 U.S. 918 (1989).

On the other hand, any Report and Recommendation to which objection is made requires de novo review by the Court. Such a review means that the Court will examine the entire record, and will make an independent assessment of the law. The Court need not, however, conduct a de novo review when the objections are frivolous, conclusive, or general in nature. *Battle v. United States Parole Comm'n*, 834 F.2d 419, 421 (5th Cir. 1987).

The Court has thoroughly analyzed the parties' submissions in light of the entire record. As required by Title 28 U.S.C. § 636(b)(1)(c), the Court has conducted an independent review of the entire record in this cause and has conducted a de novo review with respect to those matters raised by the objections. After due consideration, and for the reasons set forth in the report and defendants' response to plaintiffs' objections, the Court concludes the objections lack merit.

IT IS THEREFORE ORDERED that the Report and Recommendation of the United States Magistrate Judge (docket no. 44) is ACCEPTED pursuant to 28 U.S.C. § 636(b)(1) such that Plaintiffs' Motion to Dismiss Counterclaims of Defendants Pursuant to FRCP 12(b)(1), 12(b)(6), and 12(b)(7) (docket no. 8) is DENIED. Defendants, however, are GRANTED leave to amend their counterclaims to cure the pleading deficiencies with respect to their tortious interference claim as identified in the Report and Recommendation (docket no. 44).

IT IS FURTHER ORDERED that this case remains referred to the Magistrate Judge for further pretrial proceedings.

It is so ORDERED.

SIGNED this 27th day of December, 2018.


FRED BIERY
UNITED STATES DISTRICT JUDGE